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SENATE BILL 5813

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State of Washington

59th Legislature

2005 Regular Session

By Senator Keiser

Read first time 02/08/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the quality maintenance fee on nursing facility  
2 operators; amending RCW 82.71.010 and 74.46.091; creating a new  
3 section; and providing a contingent expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.71.010 and 2003 1st sp.s. c 16 s 1 are each amended  
6 to read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Department" means the department of revenue.

10 (2) "Gross income" means all revenue, without deduction, that is  
11 derived from the performance of nursing facility services. "Gross  
12 income" does not include other operating revenue or nonoperating  
13 revenue.

14 (3) "Other operating revenue" means income from nonpatient care  
15 services to patients, as well as sales and activities to persons other  
16 than patients. It is derived in the course of operating the facility,  
17 such as providing personal laundry service for patients, or from other  
18 sources such as meals provided to persons other than patients, personal  
19 telephones, gift shops, and vending machine commissions.

1 (4) "Nonoperating revenue" means income from activities not  
2 relating directly to the day-to-day operations of an organization.  
3 "Nonoperating revenue" includes such items as gains on disposal of a  
4 facility's assets, dividends, and interest from security investments,  
5 gifts, grants, and endowments.

6 (5) "Patient day" means a calendar day of care provided to a  
7 nursing facility resident, excluding a medicare patient day. Patient  
8 days include the day of admission and exclude the day of discharge;  
9 except that, when admission and discharge occur on the same day, one  
10 day of care shall be deemed to exist.

11 (6) "Medicare patient day" means a patient day for medicare  
12 beneficiaries on a medicare Part A stay and a patient day for persons  
13 who have opted for managed care coverage using their medicare benefit.

14 (7) "Nonexempt nursing facility" means a nursing facility that is  
15 not exempt from the quality maintenance fee under RCW 74.46.091.

16 (8) "Nursing facility" has the same meaning as the term is defined  
17 in RCW 18.51.010(~~(+it)~~), except that facilities identified as  
18 institutions for mental disease by the federal department of health and  
19 human services and classified as "nursing homes" shall not be included  
20 as nursing facilities for purposes of this chapter and are not subject  
21 to the quality maintenance fee, subject to approval of this provision  
22 by the federal department of health and human services. The term  
23 "nursing facility" does not include a boarding home as defined in RCW  
24 18.20.020 or an adult family home as defined in RCW 70.128.010.

25 (9) "Nursing facility operator" means a person who engages in the  
26 business of operating a nursing facility or facilities within this  
27 state.

28 (10) "Nursing facility services" means health-related services to  
29 individuals who do not require hospital care, but whose mental or  
30 physical condition requires services that are above the level of room  
31 and board and can be made available only through institutional  
32 facilities.

33 **Sec. 2.** RCW 74.46.091 and 2003 1st sp.s. c 16 s 4 are each amended  
34 to read as follows:

35 (1) By July 1st of each year, each nursing facility operator shall  
36 file a report with the department of social and health services listing

1 the patient days and the gross income for the prior calendar year for  
2 each nursing facility that he or she operates.

3 (2) By August 1, 2003, the department of social and health services  
4 shall submit for approval to the federal department of health and human  
5 services a request for a waiver pursuant to 42 C.F.R. 433.68. The  
6 waiver shall identify the nursing facilities that the department  
7 proposes to exempt from the quality maintenance fee. Those facilities  
8 shall include at least:

9 (a) Nursing facilities operated by any agency of the state of  
10 Washington;

11 (b) Nursing facilities operated by a public hospital district; and

12 (c) As many nursing facilities with no or disproportionately low  
13 numbers of medicaid-funded residents as, within the judgment of the  
14 department, may be exempted from the fee pursuant to 42 C.F.R. 433.68.

15 (3) By October 15, 2005, the department of social and health  
16 services shall submit for approval to the federal department of health  
17 and human services a waiver amendment pursuant to 42 C.F.R. 433.68.  
18 The amendment shall identify nursing facilities identified as  
19 institutions for mental disease as exempt from the quality maintenance  
20 fee.

21 (4) The department of social and health services shall notify the  
22 department of revenue and the nursing facility operator of the nursing  
23 facilities that would be exempted from the quality maintenance fee  
24 pursuant to the waiver request submitted to the federal department of  
25 health and human services. The nursing facilities included in the  
26 waiver request may withhold payment of the fee pending final action by  
27 the federal government on the request for waiver.

28 ((+4)) (5) If the request for waiver is approved, the department  
29 of social and health services shall notify the department of revenue  
30 and the nursing facility operator that no quality maintenance fee is  
31 due from the facility. If the request for waiver is denied, nursing  
32 facility operators who have withheld payment of the fee shall pay all  
33 such fees as have been withheld. No interest or penalties shall be due  
34 upon such withheld payments for the period during which final federal  
35 action was pending.

36 ((+5)) (6) The department of social and health services shall take  
37 whatever action is necessary to continue the waiver from the federal  
38 government.

1        (~~(6)~~) (7) The department of social and health services may adopt  
2 such rules, in accordance with chapter 34.05 RCW, as necessary to  
3 provide for effective administration of this section and RCW 74.46.535.

4        NEW SECTION.    **Sec. 3.** Sections 1 and 2 of this act apply  
5 retroactively to July 1, 2003, upon approval of the federal department  
6 of health and human services.

7        NEW SECTION.    **Sec. 4.** Sections 1 and 2 of this act expire if the  
8 contingency in section 6, chapter 16, Laws of 2003 1st sp. sess.  
9 occurs.

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